

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 08-mj-59-1-JM

Gerard Joseph Latulippe

O R D E R

A bail hearing was conducted on June 4, 2008. 18 U.S.C. §3184, the statute governing extradition from the United States to a foreign country, does not provide for bail. Bail is also not determined under the Bail Reform Act because an extradition proceeding is not a criminal proceeding. The United States Supreme Court has held that bail should not ordinarily be granted in foreign extradition cases. See Wright v. Henkel, 190 U.S. 40 (1903). Bail is available under federal common law, Matter of Extradition of Rouvier, 839 F. Supp. 537 (N.D. Ill. 1993). There is, however, a presumption against bail in such cases. Sahagian v. U.S., 864 F.2d 509, 514 n. 6 (7th Cir.) cert. den. 489 U.S. 1087 (1989).

The primary concern in an international extradition matter is delivery of the defendant. Rouvier 839 F. Supp. at 539-40.

It is rarely granted. Factors which may be considered includes probability of success on the merits, deterioration of health, unusual appeal delay, complexity of the extradition, and probability of bail in the extraditing country. Here defendant has alleged a recent colon cancer diagnosis. No evidence of it was presented. In addition, the Marshal's can see to treatment if required. The risk of defendant's disappearance is high. His Florida driver's license carries a dead person's social security number. The passport numbers given by State to the U.S. Attorney do not match the number on the passport I examined. The passport demonstrates extensive foreign travel while defendant's New Hampshire property is in foreclosure. The Costa Rican charges involve large scale fraud.

In short, it appears that defendant is a con-man who manipulates identities. He is ordered detained.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: June 5, 2008

cc: James W. Craig, Esq.
Robert M. Kinsella, Esq.